

DEPARTMENT OF SOCIAL SERVICES

44 P Street, Sacramento, CA 95814
(916) 324-1576



October 14, 1986

ALL-COUNTY LETTER NO. 86-98

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: REFUGEE CASH ASSISTANCE/REFUGEE DEMONSTRATION PROJECT (RCA/RDP)
REFERRAL AND SANCTIONING SYSTEM TRAINING

The purpose of this letter is to respond to questions that the Office of Refugee Services (ORS) received during the recent training sessions on the Refugee Referral and Sanctioning system. Although ORS staff responded to questions during the sessions, we are issuing this ACL to share those responses with all of the CWDs.

Overall, the questions were generally the same with very little variance from session to session, except in discussing a specific case or set of circumstances. We have attempted to respond to all of the questions that we received, however, if there is a specific question or issue that is not addressed, please contact Mr. Don Horel, Chief of the Policy Unit, Refugee Support Management Bureau at (916) 323-2131.

If there are any other questions, please contact me or Mr. Walter Barnes, Chief, Office of Refugee Services at (916) 322-3141.

Sincerely,

Carl B. Williams

CARL B. WILLIAMS, Deputy Director
Employment and Community Services Division

Enclosure

cc: CWDA
ORR, Region IX

GEN 654 (2/82)

1. Question: Is the status in employment-directed education/training of a participant during the sanction period voluntary or mandatory?

Answer: Once the County Welfare Department (CWD) sanctions the participant, he/she becomes a voluntary participant and remains so until the participant applies for and receives a Refugee Demonstration Project (RDP)/Refugee Cash Assistance (RCA) grant after the sanction period.

2. Question: Why is the inability to communicate in English not considered to be a "barrier to employment" or an exemption from employment-directed education/training?

Answer: Office of Refugee Resettlement (ORR) Action Transmittal (AT) 76-160 specifically states that the inability to communicate in English, in and by itself, is not a "barrier to employment" and is not "good cause" for failing to cooperate or participate (MPP 69-208.11).

3. Question: A refugee fails to report to the Central Intake Unit (CIU) for an appointment and is reported to the CWD for nonparticipation. At the "good cause" interview (at the CWD) the refugee states he/she never received the notice from the CIU. What action should the CWD take?

Answer: In making a "good cause" determination the CWD is required to look at all of the circumstances and base its decision on those facts.

4. Question: A refugee is reported to the CIU for noncooperation after failing to respond to a notice from the Service Provider (SP) in which the address was incorrectly typed. The CIU used the same address to schedule the noncooperation interview (form RS 3B). What action should the CWD take when it discovers the notices were sent to the wrong address?

Answer: In this situation, the CWD must find that the refugee did have "good cause" since he/she never received the appointment notice. The refugee cannot be penalized for failing to respond to the notice because it was mailed to the wrong address. The CWD should also notify the CIU of the correct address via the RS 3.

5. Question: What are the responsibilities of the CWD prior to referring the refugee to the CIU?

Answer: The CWD determines eligibility for cash assistance; determines exempt/nonexempt status; explains program requirements; explains clients rights and responsibility/requirements; completes the CIU Referral Form (RS 3) and; refers the client to the CIU for registration and participation.

6. Question: What information should the CIU/SP report to the CWD when a refugee is placed in employment?

Answer: The SP is required to report client employment to the CIU on the RS 3A. The CIU then forwards a copy of the RS 3A and the RS 3 to the CWD. Information on the forms include: the date the employment starts; hours/type of employment (i.e., full-time, part-time, etc.); salary/wage; case name/client name; case number; and, social security number.

7. Question: Should the CWD notify the CIU of the outcome of a "good cause" determination?

Answer: Yes, the CWD must notify the CIU within 15 calendar days from the date the Notice of Action (NOA) is sent notifying the refugee he/she is being sanctioned. The CWD can wait ten days before notifying the CIU of the sanction (via the RS 3), just in case the refugee files an appeal and requests Aid Paid Pending. If the refugee is not being sanctioned, the 15 days begins the date the CWD determines the refugee had "good cause".

8. Question: When a refugee loses a State hearing on a sanction issue, when does the sanction period begin?

Answer: The discontinuance shall be effective from the date set forth in the hearing decision, or if the decision does not say, at the end of the payment month in which the state hearing decision is received. If the county is unable to discontinue aid at the end of such month, it shall be discontinued at the end of the following payment month.

9. Question: How are wages from an On-the-Job-Training (OJT) placement treated?

Answer: As in AFDC, the wages are treated the same as earned income.

10. Question: At what point in a pregnancy is a woman deferred or exempt from the work registration requirements?

Answer: A pregnant woman may be exempted from the work registration requirements when it is determined, based on a written statement from a physician, that the pregnancy prevents the individual from engaging in employment or participation in employment-directed education/training (MPP 69-208.4(g)).

11. Question: Should the CWD discontinue an RDP-FG case during the sanction period if no CA 7 is received?

Answer: In an FG case, only the noncomplying Caretaker Relative (CR) is sanctioned; the eligible dependent children continue to receive assistance as long as the CR continues to submit the CA 7 monthly. If the caretaker relative fails to submit a CA 7 (MPP 40-181.22), the case is ineligible and must be discontinued.

12. Question: Is a refugee who enters employment required to report his/her income to the CWD or wait for the CIU to report the job placement information to the CWD?

Answer: Yes. It is the responsibility of the refugee to notify the CWD, within five (5) calendar days, of any facts/changes in circumstances which he/she believes to be material to his/her eligibility or which the CWD has identified to him/her as affecting eligibility. In addition, as part of its reporting responsibility, the CIU must also notify the CWD when a refugee is placed in employment and of any changes in that employment.

13. Question: Can a refugee have "good cause" for nonparticipation/noncooperation when travel time to and from a job or training exceeds two (2) hours round trip?

Answer: If the daily commute time (not including transporting a child to and from child care) exceeds two hours, the refugee may have "good cause" unless a longer commute time is generally accepted in the community, in which case the commute time should not exceed the generally accepted community standard. (MPP 69-208.63(o))

14. Question: Is it ever "too late" to report welfare fraud?

Answer: No. Welfare fraud is a crime and should be reported to the CWD as soon as it is suspected. The CWD is to notify the proper authorities who will determine what action should be taken.

15. Question: What is the penalty for an RDP/RCA applicant/recipient who quits a job without "good cause"?

Answer: To respond to this question, we must look at the individual cash assistance programs and whether the refugee is an applicant or a recipient.

Applicants

RCA or RDP-U. A principal wage earner applicant who quits a job, without "good cause", is ineligible for aid as is the entire Assistance Unit (AU) for 30 days from the date of quitting the job.

RDP-FG. The applicant is ineligible for aid but the CWD may approve aid for the remainder of the AU.

Recipients

RCA/RDP-FG. A nonexempt recipient who quits a job or refuses an appropriate offer of employment without "good cause", is ineligible for three (3) payment months for the first offense and six (6) payment months for the second and subsequent offenses. Aid continues to the rest of the assistance unit if the members are otherwise eligible.

RDP-U. A noncomplying RDP-Unemployed Parent (U) who quits a job or refuses an appropriate offer of employment without "good cause" is ineligible, as is the entire assistance unit for three (3) months for the first offense and six (6) payment months for the second and subsequent offenses.

16. Question: If the documentation from the CIU is insufficient to determine "good cause", must the CWD complete a cause determination?

Answer: Yes. The CWD must complete a cause determination within ten (10) working days of being notified by the CIU. In its determination, the CWD is required to look at all of the available data and base its decision on that data. This may require requesting additional data from the CIU, the SP (via the CIU), or the client. If the CWD cannot determine that the client did not have "good cause" for the act of noncooperation/nonparticipation, the CWD must determine that the client did have "good cause".

17. Question: What is the role of the CIU in the State hearing process?

Answer: Effective July 1, 1986, the CIU will attend all State hearings when requested by the CWD. The CIU must also, when requested, assist the CWD in preparing for the State hearing.

18. Question: Who has the responsibility to substantiate the CWD's position in the State hearing?

Answer: In the State hearing process, the CWD has the burden of proof and must substantiate its actions in relation to the case being heard. To help defend that position, the CWD may request the attendance and testimony of the CIU and/or the SP at the State hearing when necessary. The CIU will determine if the SP should also appear. The Administrative Law Judge will decide the issue based on the evidence contained in the hearing record.

19. Question: Does an RDP sanction follow the recipient in an intercounty transfer?

Answer: Yes, the RDP sanction is a program action which affects the recipient's eligibility for cash assistance, without regard to the county in which the client lives. However, if the new county is a non RDP county and the recipient is converted back to AFDC, the sanction does not follow the recipient.

20. Question: Does employment of less than 100 hours per month exempt the refugee from the registration and employment-directed education/training requirements of the RDP/RCA?

Answer: No, only refugees employed 100 hours or more per month are exempt from the work registration requirements. Employment of less than 100 hours per month requires refugees to cooperate and participate in employment-directed education/training as part of their eligibility for cash assistance.

21. Question: When a refugee is referred by the provider to the CIU for noncooperation, is he/she still required to continue participating in the training program?

Answer: Yes. Until the refugee is either exempted from participating or actually sanctioned by the CWD, he/she is still a mandatory referral and must continue to cooperate/participate in the education/training program. If the refugee appeals the sanction and receives Aid Paid Pending, he/she must still continue to cooperate/participate in the education/training program. If the refugee fails to cooperate during the referral for noncooperation, the cause determination, or during the appeal, the refugee must be referred again for failing to cooperate/participate and for each subsequent act of noncooperation or nonparticipation.

22. Question: Can the CIU mail the RS 3A to the SP and give the refugee a specific appointment with the SP?

Answer: Yes, the CIU may mail the RS 3A to the SP and give the refugee an appointment with the SP. In this system, the CIU would most likely mail the RS 1 along with the RS 3A. In order for this system to work adequately, ORS requires that the CIU and the SP agree that the original RS 3A and RS 1 would be mailed, but also would give the refugee copies of the documents to take to the SP. This way, the SP enrollment of the refugee would not be delayed due to mail delays if the refugee arrives at the SP before the forms.

23. Question: What does an OJT agreement include or cover? What about the contents of the attendance policy or Employment Services (ES) Agreement?

Answer:

OJT Agreement

At a minimum, along with client identification information, the agreement must contain the following:

- o A job description listing the specific duties of the participant,
- o Location of the training site,
- o Effective dates of the training,
- o The salary the participant will receive,
- o The amount of salary to be subsidized by OJT funds,
- o Assurance from the employer of a job offer upon completion of the training,
- o Statement on consequences of nonparticipation/noncooperation,
- o Description of actions the provider would take upon nonparticipation/noncooperation, i.e., terminate client from services and refer client back to the CIU, and
- o Signature of both participant and service provider.

Attendance Policy

- o Client identification information,
- o Specific time necessary to complete the training component,
- o Specific day(s)/hours training is scheduled,
- o Maximum number of hours/absences allowed during the training,
- o Description of the clients' rights and responsibilities, and
- o An explanation of noncooperation/nonparticipation and the steps the provider must take if the client fails/refuses to cooperate or participate.

Employment Services (ES) Agreement

- o Client identification information,
- o Description of services to be provided by agency,
- o Description of client responsibilities and expectation, i.e., client job search activities, staying in contact with provider, keeping provider informed of address changes or other pertinent information, need to attend job search workshops, etc.
- o Explanation of nonparticipation/noncooperation and consequences, i.e., refusal to accept a job offer, failure to appear at employer, etc., and
- o Signed by both client and ES provider.

24. Question: Can the seven-day time limit for the CIU's nonparticipation/noncooperation interview be extended?

Answer: No. The CIU must complete the nonparticipation/noncooperation interview within seven days. If the CIU fails to meet this time frame, the CIU must notify the ORS Program Analyst immediately.

25. Question: How can the CIU notify the SP that the refugee is receiving supportive services?

Answer: Before an RDP client is given supportive services, the SP must verify the client's enrollment on forms issued by the CIU. Thus, the SP shares the responsibility for ensuring that client receives supportive services and is fully informed of the client's eligibility for supportive services without formal notification by the CIU.

26. Question: What actions should the SP take if the refugee refuses to sign the attendance policy or the ES Agreement?

Answer: Refusal to sign the attendance policy or ES Agreement constitutes noncooperation/nonparticipation. Inform the client that signing the document is a condition for services and explain the consequences for noncooperation/nonparticipation. If the client still refuses, refer him/her back to the CIU for noncooperation.

27. Question: A refugee completes training but is not employed after 90 days, should the SP refer the client back to the CIU or tell the client to wait for the CIU to contact him/her?

Answer: The SP should inform the client that his 90-day participation in ES has expired and that they will refer his case back to the CIU for additional assistance toward employment. The SP is responsible for notifying the CIU on the RS 3A. The CIU is responsible for getting the client back into the CIU for a reassessment interview. The ES provider is not required to ascertain whether the client appeared at the CIU as required.

28. Question: What is the federal/state definition of "barriers to employment"?

Answer: During assessment, the CIU is responsible for gathering all pertinent information on the client and making an assessment as to the client's job readiness. What is determined to be a barrier for one client may not be a barrier to another. ORR and ORS believe that low English skills alone should not be considered a barrier to employment.

29. Question: CIUs are discovering during the assessment of mandatory referrals that the refugees are attending college full-time and feel this should exempt them from being referred to training or Employment Services. Should the CIU refer them back to the CWD for a redetermination of his/her eligibility for Cash Assistance or should the CIU report the refugee for nonparticipation/noncooperation?

Answer: The CIU should not second guess the CWD on eligibility determination for cash assistance and the mandatory referral to the CIU. DSS regulations allow for some full-time college students to be mandatorily referred to the CIU. The CIU must accept the eligibility information on the RS 3 and handle the client accordingly. If the refugee refuses to participate/ cooperate because attending school, he/she is to be referred to the CWD for a "good cause" determination. The CIU may inform the CWD using the RS 3A that the client has indicated he/she is attending college full-time.

30. Question: Service providers are discovering during the enrollment of mandatory referrals that the refugees are attending college full-time and feel that the training interferes with their college attendance. Should the provider enroll the client or refer him/her back to the CIU for reassessment?

Answer: When the CIU refers a client who is a full-time college student to the service provider, the service provider must enroll the client and handle the case like all other CIU referrals. The service provider must not refer the client back to the CIU for reassessment based only on the fact that he/she is a full-time college student. The provider may inform the CIU using the RS 3A that the client has indicated he/she is attending college full-time.

31. Question: Do SPs close a client's case when he/she is reported to the CIU for nonparticipation/noncooperation or keep it open? If so, is there another report of nonparticipation/noncooperation to the CIU? How many times can this occur?

Answer: Service Providers are required to retain and serve mandatory clients reported for noncooperation/nonparticipation until they receive notice that the client has been sanctioned, "good cause" has been found, a state hearing decision has overruled the proposed sanction, or if the client is not participating until such time as that client would have completed training, whichever comes first.

All service providers must report daily (to the CIU using RS 3As) any client who fails to cooperate or participate.

The SP must report the client to the CIU for each and every incident that violates the providers attendance policy or ES agreement.

32. Question: Clients complain when the CIU refers them to an employment-directed education/training site other than the one they wish to attend. Is this an appropriate referral?

Answer: An "appropriate referral" must meet the following criteria in priority order unless waived by DSS. The project referred to is: 1) DSS-funded project; or 2) DSS-approved project (via a Memorandum of Understanding); and, 3) in accordance with the CIU developed employability plan.

33. Question: What is an "appropriate job referral"?

Answer: Any referral to a job which does not violate the Minimum Wage Law and/or State and County health and safety standards.

34. Question: What is the definition of "Substantial and Compelling" as used in MPP 69-208.63(q)?

Answer: In the context of the regulations, "Substantial and Compelling" indicates a set of circumstances which are totally unexpected and beyond the control of the refugee. The situation must be one which the client could not expect or anticipate, recover from, or correct the circumstances which prevented him/her from participating and/or cooperating.

35. Question: What should an SP (not an Employment Services Provider) do when they learn a participant is working?

Answer: If the client's employment is not interfering with the training, allow the client to continue training until completion. The SP must also report this information to the CIU (using the RS 3A), who will report it to the CWD so earnings can be applied towards the cash grant.

36. Question: Can an SP give second chances?

Answer: No. Attendance and participation requirements must be complied with by all clients. All occurrences of nonparticipation/noncooperation must be reported to the CIU.

Policies and procedures must be applied equally to all clients (mandatory/nonmandatory) for program consistency.

37. Question: A refugee reports to the CIU but will not participate in developing and/or agree to his/her employability plan. Does the CIU report the refugee to the CWD for noncooperation or refer him/her to the SP and wait to see if the refugee reports to the provider?

Answer: The CIU should fully document the incident and refer the refugee to the CWD for noncooperation.

38. Question: Should the employability plan include mandatory dates for the refugee to report back to the CIU for reassessment after completing a component?

Answer: Yes, if the client is referred to a component that does not have an employment placement requirement, such as ESL, the employability plan should contain the date the refugee is to complete training and date to return to CIU for reassessment. This establishes a tickler file so that the CIU can notify the refugee of his/her reassessment. In cases where the component is to lead to an employment placement but the refugee does not obtain employment, then it is the provider's responsibility to refer the refugee back to the CIU for reassessment.

39. Question: Are ES providers required to report employment retention to the CWD at the 30- and 90-day follow-ups?

Answer: No, SPs are to report job retention information to the CIU who reports it to the CWD.

40. Question: Are there any circumstances under which RDP supportive services funds may be used for an RDP recipient in a Targeted Assistance (TA) training component, when TA funds are still available?

Answer: No, RDP supportive services funds are to be used only when no other supportive services funds are available.

41. Question: In Los Angeles, if a refugee moves from one CIU district to another, should the CIU notify the CWD?

Answer: If the CIU is aware of the move, it should notify the CWD of the refugee's change of address and the CIU in the new district that the refugee has moved into their district. In addition, the old CIU District should send copies of the refugee's file to the new CIU District so that the employability plan developed can be carried out.

42. Question: A refugee referred to the CIU by the CWD says he/she is ill. Does the CIU register him/her and report noncooperation or refer him/her back to the CWD?

Answer: The CIU should register the client, develop the employability plan and refer the client to the SP. If the client claims to have a mental or physical disability which prevents him/her from participating in training and refuses to cooperate with the CIU. The CIU should fully document the incident and refer the client to the CWD for noncooperation.

43. Question: When should the CIU send the RS 3C to the CWD?

Answer: The RS 3C should be sent to the CWD after the client is interviewed but no later than five days after the interview. The CIU must include all of the required documentation to enable the CWD to determine if the client had "good cause".

44. Question: Since the RS 1 is the employability plan and signed by the client, why is a copy not sent to the CWD as part of the documentation in noncooperation/nonparticipation referrals?

Answer: The documentation should include a copy of the RS 1 since it may be needed by the CWD to determine if the client did have "good cause".

45. Question: Should the CIUs have mandatory clients sign rights and responsibility notice statement? If yes, can provider receive a copy?

Answer: Every client for whom the CIU fills out an RS 1 has to sign Part D which is the State Hearings Statement and Waiver of Confidentiality. All providers receive a copy of the RS 1 for refugees referred to them for services. In addition, the CIU is required to have each refugee sign the Statement of Rights and Responsibilities (RS 30) and to explain the contents of the RS 30 to the refugee in his or her own language or a language the refugee understands. Each provider is also required to follow this process; therefore, the CIU shall not forward a copy of the RS 30 to the SP.

46. Question: Can California deny aid to a refugee who is under an RDP sanction in another state for quitting a job without "good cause"?

Answer: No. California cannot enforce the sanction by the other state. However, if the CWD determines the refugee quit his/her job without "good cause", aid can be denied for 30 days from the date that the refugee quit the job.